

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 589 - SB 781

April 3, 2009

SUMMARY OF BILL: Includes aggravated child abuse, aggravated child neglect, rape of a child, and aggravated rape of a child in the list of homicide offenses that support a sentence of death or life without parole when committed in conjunction with first degree murder.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$218,400/Incarceration*

Other Fiscal Impact – It is estimated that an average of one offender per year will receive a death sentence. If a death sentence offender serves an average of 20 years before the sentence is carried out, there will be no significant additional incarceration costs for the death-sentenced offender, apart from the cost of the execution. The cost of executing each offender will exceed \$15,000. The cost to the state for trials and appeals from death-sentenced offenders is substantially higher than for other cases. It is estimated that the additional cost of trials and appeals from death sentences will exceed \$750,000 for each case.

Assumptions:

- According to the Department of Correction (DOC), “first degree murder” is not reflected in the Department’s database. DOC statistical data reflects 29 offenders were released for murder one offenses in FY07-08 with an average time served of 27 years. DOC estimates one additional admission for first degree murder with a life sentence (51 years).
- Currently those offenders convicted of rape of a child are classified as a “child rapist” and are required to serve 100 percent of their sentence. Imprisonment for life will be a lesser sentence for “aggravated rape of a child” than for “rape of a child” because an offender convicted of “aggravated rape of a child” would be eligible to receive sentence credits.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next

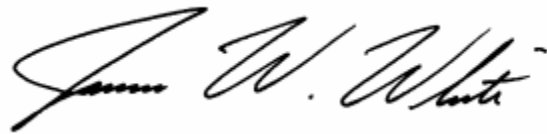
10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 24 years (an increase from 27 years to 51 years). According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. The cost per conviction in the tenth year is \$218,419.50 (\$59.80 x 3,652.50 days).

- The cost of executing an offender will exceed \$15,000.
- The state incurs substantial out-of-pocket expenses in death-sentence trials and appeals. These include costs of appointed attorneys, expert witnesses, investigation, and related matters. These additional costs are estimated to exceed \$750,000 in each case.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a large initial "J" and a distinct "W".

James W. White, Executive Director

/lsc